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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,129	01/23/2001	Michael Weiss	SMB 2 0915	3324
7590	10/05/2005		EXAMINER	
James W. McKee Fay, Sharpe, Beall, Fagan Minnich & McKee, LLP 1100 Superior Avenue, 7th Floor Cleveland, OH 44114-2518			MILEF, ELDA G	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/768,129	<b>Applicant(s)</b> WEISS ET AL.	
	<b>Examiner</b> Elda Milef	<b>Art Unit</b> 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/23/01</u>  | 6) <input type="checkbox"/> Other: _____                                    |

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**DETAILED ACTION**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baindur et al. (US Patent No. 6,073,176) (hereinafter Baindur).

Baindur discloses (see at least columns 1-28, but in particular columns 1-8) a bid manager agent for issuing a call for bids for usage of said resources, receiving said bids and selecting a best bid from amongst said bids, wherein each of said bids defines a predetermined context, a plurality of bidder agents for issuing said bids according to predetermined bidding policies in response to said call for bids, wherein one of said bidder agents issues said best bid and provides said resources upon selection of said best bid by said bid manager.

It is noted that the concept and steps of calling for bids for the provision of resources, processing the bids, determining the best bid, and awarding the winning bid by any other name is

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still just that ordinary old and well known process. This fact would have been obvious to one skilled in the art at the time of the invention. A multi-agent caching system can be just a series of standard physical inboxes to hold the bids of different bidders, in which bids could be stored by any variety of criteria.

***Response to Arguments***

2. Applicant's arguments, see Response to Office Action, filed on October 25, 2004, with respect to the rejection of Claims 1-17 under 35 U.S.C 112, second paragraph, have been fully considered and are persuasive. The rejection of claims 1-17 under 35 U.S.C 112, second paragraph has been withdrawn.

3. Applicant's arguments, see Response to Office Action, filed October 25, 2004, with respect to claims 1-17 rejected under U.S.C 101 have been fully considered and are persuasive. The rejection of claims 1-17 under 35 U.S.C 101 have been withdrawn.

4. Applicant's arguments regarding the 35 U.S.C 103(a) rejection of claims 1-17 filed on October 25, 2004 have been fully considered but they are not persuasive.

In regards to claims 1-17, and applicant's suggestion that the process shown by Baindur and that of the applicant's are at odds. The Applicant's attention is directed to col. 15, lines

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51-67 and column 16 lines 1-14 of Baindur. Baindur teaches ("Each system A, B and D sends a bid back to system C in step 3. System C generates its own bid value locally. Each bid is based on dynamic bid weighting criteria that varies depending on the status of the system at the time the bid request is initiated. For example, the value bid by each system A, B, C and D in step 3 is weighted according to whether the system is already controlling or processing other similar events, locality of the event in relation to the location of the system bidding for the event, CPU capacity of the system, current loading of the system, manual override values and an offload criteria that indicates the system making the bid does not want to process the event.") and ("Because the bids are dynamically weighted, the event is given to the system that can process the event most efficiently.") Baindur clearly discloses that the variable (dynamically weighted) components are considered as a whole when bid upon.

In regards to the Applicant's assertion that the previous Examiner's allegation that " the concept and steps of calling for bids for the provision of resources, processing the bids, determining the best bid, and awarding the winning bid by any other name is still just that ordinary old and well known process" is only supposition. The Applicant's attention is

directed to Baindur, columns 15-20 where bidding protocol and bidding session are described in detail.

**Conclusion**

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elda Milef whose telephone number is (571)272-8124. The examiner can normally be reached on Monday - Friday 9:15 am to 5:45 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung Sough can be

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reached on (571)272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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